

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

WILLIAM M. ADAMS, SR.,	)	
	)	NO. CV-07-5007-LRS
Plaintiff ,	)	
	)	ORDER DENYING DEFENDANTS'
-vs-	)	MOTION FOR SUMMARY JUDGMENT
	)	
NEW YORK LIFE INSURANCE	)	
COMPANY; THE PAUL REVERE LIFE	)	
INSURANCE COMPANY; and	)	
UNUMPROVIDENT CORPORATION,	)	
	)	
Defendants.	)	

Before the Court is Defendants' Motion for Summary Judgment (Ct. Rec. 21), filed July 14, 2008. A hearing was held on September 18, 2008 in Yakima, Washington. Charles Huber appeared on behalf of Defendants New York Life Insurance, The Paul Revere Life Insurance Company and Unumprovident Corporation. Diehl Rettig appeared on behalf Plaintiff William M. Adams, Sr. This order is entered to supplement the record and confirm the oral ruling of the Court rendered at the conclusion of the hearing on September 18, 2008.

Defendants assert that Plaintiff (a former Chief Executive Officer of a real estate company, diagnosed with Genotype Hepatitis C in August 2000) does not meet the "totally disabled" definition under the controlling insurance policy; did not submit the ongoing "Proof of Disability or Loss" documentation required

1 under the policy; and submitted misleading information with  
2 regards to the claim for disability benefits.

3 Plaintiff argued that the denial of his benefits based on the  
4 unsupported contention that he can work part-time constitutes a  
5 breach of Defendants' contractual obligations owed to him.

6 Plaintiff further contends that Defendants have violated their  
7 duty of good faith and fair dealing. Without waiving any rights  
8 he may have under other parts of the policy, Plaintiff asserts  
9 that he is totally disabled, and that genuine issues of material  
10 fact exist as to whether Plaintiff's sickness, including its  
11 complications and chronic nature, prevent him from performing the  
12 substantial and material duties of his regular occupation.

13 Having concluded that issues of material fact exist and for  
14 the reasons discussed at the hearing and referenced above,

15 **IT IS ORDERED** that Defendants' Motion for Summary Judgment,  
16 Ct. Rec. 21, filed July 14, 2008, is **DENIED**.

17 The District Court Executive is directed to file this Order  
18 and provide copies to counsel.

19 **DATED** this 3rd day of October, 2008.

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21 ***s/Lonny R. Suko***

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LONNY R. SUKO  
UNITED STATES DISTRICT JUDGE